



17 FEB 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Dr. Paul J. Vincent
DREISS, FUHLENDORF, STEIMLE & BECKER
Postfach 10 37 62
D-70032 Stuttgart
GERMANY

In re Application of: :
KLEIN, Gerhard : DECISION
U.S. Application No.: 10/517,276 :
PCT No.: PCT/EP03/00379 :
International Filing Date: 16 January 2003 :
Priority Date: 10 June 2002 :
Attorney's Docket No.: 2213 0084US :
For: MACHINE FOR SUPERFINISHING BY :
HONING :

This application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 16 January 2003, applicant filed international application PCT/EP03/00379, which claimed a priority date of 10 June 2002 and which designated the United States. On 18 December 2003, a copy of the international application was communicated to the USPTO by the International Bureau (IB). Payment of the basic national fee in the United States was due within thirty months of the priority date, i.e. 10 December 2004.

On 09 December 2004, applicant filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) with respect to international application PCT/EP03/00379. This submission included, among other materials, the authorization to charge Deposit Account No. 50-1030 for required fees, including the basic national fee. The submission was assigned application number 10/517,276, and Deposit Account No. 50-1030 was charged \$1,000 in fees.

On 10 December 2004, applicant filed a second "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) with respect to the same international application, PCT/EP03/00379. This submission was assigned application number 10/517,379, and Deposit Account No 50-1030 was again charged \$1,000 in fees.

On 31 January 2005, applicant filed a "Request For Withdrawal Of Application And Refund Of Fees." This request seeks withdrawal of the duplicate national stage application filed 10 December 2004 (10/517,379) and the refund of fees charged therein.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 have been submitted for international application number PCT/EP03/00379 (U.S. application numbers 10/517,276 and 10/517,379). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper. The documents filed on 09 December 2004 in application number 10/517,276, the first papers submitted by counsel as the national stage of PCT/EP03/00379, will continue to be processed. The second set of materials, filed on 10 December 2004 and assigned application number 10/517,379, which represent an improper duplicate national stage application, have been placed in application file 10/517,276. The duplicate fees charged in application number 10/517,379 have been refunded to Deposit Account 50-1030, and application number 10/517,379 has been discontinued.

Based on the above, the "Request For Withdrawal Of Application And Refund Of Fees" filed 31 January 2005 is moot.

CONCLUSION

The papers filed on 10 December 2004 and assigned application number 10/517,379 have been placed in the file of application number 10/517,276. Application 10/517,379 will be discontinued.

Application 10/517,276 will continue to be processed as the national stage of PCT/EP03/00379.

Deposit Account No. 50-1030 has been refunded the duplicative \$1000 in fees charged under application number 10/517,379.

The present application (10/517,276) is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the mailing of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration later than thirty months after the priority date.



Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459